

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPLICATION NO.2340 OF 2005
IN APPEAL NO.952 OF 2004

Shrihari Rajlingam Guntuka

..Applicant

Vs.

State of Maharashtra

..Respondent

Mr.Majeed
Ms.Usha

Memon
Kejriwal,

with

Mr.W.H.Syed
APP

for
for

applicant.
State.

CORAM:

S.S.

PARKAR

&

R.S.MOHITE,

JJ.

Date

:

May

03,

2005.

P.C.:

The applicant was convicted for offence of murder on the basis of the evidence of eye witness who was none other than the brother of the deceased who had also lodged the first information report. Against the order of conviction appeal was preferred in this Court. The application for bail was rejected first on 17th August 2004 and thereafter on 25th October 2004. Thereafter the applicant was released on temporary bail on the ground of pregnancy of his wife. Though sufficient time was given for temporary bail to ensure that he would surrender after delivery of his wife, he had applied for extension twice which was granted. By the order of this Court dated 3rd February 2005 it was made clear that no further indulgence would be shown in extending the period of temporary bail. Thereafter he had filed Special Leave Petition before the Supreme

Court but the Supreme Court had declined to interfere. Thereafter regular Bail Application No.1523 of 2005 was filed by the applicant which was withdrawn by the Advocate for the applicant on 1st April 2005. Thereafter the present application is made for regular bail.

The present application is made on the ground that the first informant has given an affidavit that he had given evidence against the applicant under the pressure of police and today we are told that he has filed a petition in this Court and a petition before the Human Rights Commission complaining that he was forced to give evidence against the applicant accused. The applicant is on temporary bail since 10th October 2004. Though his temporary bail had expired on 14th March 2005 he has not yet surrendered and has made the present application for bail. As pointed out earlier, he had made one more application before the present application which was withdrawn on 1st April 2005. Such conduct on the part of the applicant raises question whether the applicant should be released on bail in view of the fact that during trial when the accused was on bail four eye witnesses being P.Ws.2,3,4 and 6 had turned hostile as pointed out by the learned APP and after the conviction order the complainant who is none other than the brother of the

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deceased is stated to have made affidavit that he had given evidence and implicated the accused applicant due to the pressure of the police. Secondly the applicant had not surrendered for a period of more than one and half months though on 14/3/2005 the Supreme Court had refused the extension of temporary bail and had directed the applicant to surrender to the custody and then seek regular bail. We are told by the defence counsel that the applicant has not surrendered till date. There is no merit in the present application.

In the circumstances, we see no reason to grant this application and, therefore, reject the same.

(S.S. Parkar, J.)

(R.S.Mohite,J.)